

have to be vigilant to ensure that a particular placement/program within the district is not perceived by the parents as a foregone conclusion in the minds of the staff before the necessary IEP meeting occurs. We can suggest that the parent visit and consider a center-based program option, but we should always emphasize that the IEP as determined by the team will drive the ultimate placement decision.

4. Disciplinary action and/or behavior management methods that do not take the disability or behavior plan into account.

THE PROBLEM: This arises in two ways. One is that key personnel, sometimes including the principal, assistant principal or dean, are not “trained up” in the student’s behavior plan, often to the point of being completely unaware that it exists. The other way it becomes a problem is that special education service team members, who know the plan’s contents, improvise behavior strategies that are not included in the plan (and are successful from the practitioner’s point of view), but never convene the team to change the plan.

COMMENT: This is basically a “nonimplimentation” issue, but has more serious dimensions than most. For one thing, it is among the most common types of complaints in due process. For another, a student’s reaction to a particular intervention can be quite dramatic and severe, leading to potential claims of emotional setbacks caused by the school staff’s “deliberate indifference” to a known need. Staff members who apply measures not authorized in a child’s behavior plan may be at risk. *Colon v. Colonial Intermediate Unit 20, et al*, 46 IDELR 75 (U.S. District Court M.D. Pa. 2006) [Teacher placed student in time-out for a full day, and deprived him of hot lunches, bathroom breaks. Parent was permitted to sue teacher for 1983 civil rights violation because actions were not clearly authorized in the student’s behavior plan or IEP.] The solution is to distribute the behavior plan to everyone who may be in a position of needing to deal with the student’s behavior, and make sure each person is clearly aware of and understands how to implement each of the plan’s provisions. Staff should implement the plan AS WRITTEN unless and until the plan itself is amended, or they have written authorization from the parent.

3. Attempting to develop a program and serve a student with staff untrained or insufficiently trained in the specific disability.

THE PROBLEM: This arises not only in connection with allegations of actual service deficiencies, but also comes up when there’s no one on the team demonstrating skill and familiarity with the jargon and literature related to the particular disability or standard service methods. It leads to claims the staff

doesn't "understand" the disability. Dyslexia, autism, TBI, nonverbal learning disability, and fetal alcohol syndrome are impairments that come to mind in this context.

COMMENT: This is a killer. School districts didn't start winning ABA autism cases in the nineties until they started training staff to reasonable levels in the methodologies they were using. We can't expect to be credited with using "research based" methods if our service delivery personnel are untrained in the methods. Almost as important, we need to have people who can "speak the language" of the particular service methods in contacts with the parents. We need to play *and* talk a good game.

2. Failure to case-manage.

THE PROBLEM: While it is common to assign someone (often the special education teacher) as the "case manager," it is apparently *uncommon* for that person to make sure the IEP is implemented as written and that all monitoring and reporting occur as promised or otherwise on a timely basis. Generally, the attitude or understanding seems to be that each practitioner is responsible for his/her own compliance with IDEA provisions, with no one accepting overall responsibility for the implementation of the IEP and the relationship with the family.

COMMENT: Poor case-management is responsible for virtually all nonimplementation issues that arise in due process hearings and federal complaints. Case management entails active and regular follow up with the various members of the service team. Regular and frequent progress monitoring and reporting is a wonderful tool for this. It is the case-manager's job to bug people for their data, pull the data together, and make sure parents receive all relevant documentation *at the agreed-upon frequency*. If that is done, it will be impossible for many of the implementation and communication problems to develop at all. The case manager also has to make sure the district administration is aware of a need for additional resources so that IEP implementation doesn't suffer when a service provider has an extended illness or similar problem occurs.

1. Failure to genuinely hear, acknowledge, and address the parents' input.

THE PROBLEM: CDE indicates this is the single biggest complaint that they hear from parents: That they felt "discounted," that their input was not wanted and not valued -- not enough time was set-aside for the meeting; they did not understand the process; they were cut-off or interrupted when attempting to speak, and when they did offer input, there was no discussion. Attorneys often hear from *pro se* parents and attorneys for the parents and

students that the team's or a particular staff member's interactions with the parents actually "caused" the parent to file a due process complaint.

COMMENT: The team needs to be intentional about the techniques and strategies that can help facilitate good meetings, and ensure that the parents' input is heard and considered. Here is a partial list derived from various sources², including CDE's Laura Freppel:

- g. **Don't rush.** Working too fast sends the message that we don't really care. Meetings that are rushed tend to seem impersonal make the parents feel like the team is not concerned with them or their child. Take the time to greet them when they come into the building for the IEP meeting and offer them coffee or just chat with them for a few minutes before getting into the substantive part of the meeting.
- h. **Use good meeting protocols.** Respectful communication, turn-taking, no interrupting, no side-bars while someone is talking, setting the time limits for starting and ending, all help.
- i. **Explain things.** Many parents and some of the teachers don't understand the complex information presented to them at IEP meetings. A hearing officer is likely to be sympathetic. So explain and/or offer to explain, and check for understanding.
- j. **Keep Each Report Short.** This may seem to contradict the last one, but there's a balance. Yes, it is important to explain the evaluation results clearly, but brevity is still a very desirable goal. People understand things better if they don't have to concentrate more than five minutes on any one report or topic.
- k. **Let the parents talk, but listen "actively".** It is important for parents to leave the meeting feeling they have had the opportunity to share their concerns. The skill of "active listening" not only demonstrates care and concern; it may also help shorten the parents' inputs by guiding them toward the conclusions they are trying to draw, and interjecting to clarify understanding and restate points.

² Several of the points are based upon commentary in 10 tips to survive difficult IEP meetings, Bryan Bugay, a school psychologist and LRP *Special Ed Connection* Contributing Editor (archived on the LRP website)

- l. Stay calm.** Easy to say; not so easy to do. Still, “unflappability” is among the most cherished attributes of an IEP team meeting leader. Skills in the use of humor to deflect anger and reign in repetitive time-wasting perseveration must be honed. When staff members heat up in an exchange with the parents, it can lead to exaggerated claims that the parent “feared for her safety” in the meeting.
- m. Take a break.** We all know to take breaks if a meeting is long. The leader should also be prepared to call a break anytime there are signs that the parents or other team members are getting too stressed out, or belligerent, or to break up any unwanted trend in the meeting dynamics. A break can help staff regroup and come up with ideas to resolve disagreements that seemed utterly insoluble in the throes of the meeting.
- n. Preparation.** The team will be viewed as lacking conscientiousness and unprofessional if they show up for the meeting unprepared. Make sure the appropriate paperwork is at the meeting, with copies of everything for the parents. The team may want to informally discuss the results of the evaluation before the meeting so there are no surprises expressed among staff during the meeting, and the team leader should go over her/his agenda and meeting strategy in advance. A pre-meeting between evaluators and parents to discuss evaluation results can also be helpful. Obviously, it is important not to discuss eligibility for special education or make any decisions at the pre-meeting.
- o. Know when to bail out and reschedule.** If the meeting is very long or the leader sees the dynamics deteriorating even after a break, it is probably better to reschedule the rest of the meeting than to continue while the vibes are so bad. Of course, at some point decisions have to be made regardless, but until you get to that point, rescheduling may be the preferable alternative.
- p. Meeting notes.** Faithfully documenting what has been said by each team member as well as final decisions will go a long way to creating a process where parents feel that they have been given the opportunity to be heard.